



POLICY BRIEF



POLICIES THAT LED TO THE BIDEN BORDER CRISIS

The Trump administration implemented numerous immigration policies to secure the border and keep Americans safe. The Biden administration's dismantling of these policies, lack of enforcement, and open border rhetoric has led to a humanitarian crisis at the southern border. The unprecedented number of illegal immigrants attempting to cross the border will not end unless the Biden administration works to reverse its actions and change its rhetoric.

- Homeland Security Secretary Alejandro Mayorkas stated, "We are on pace to encounter more individuals on the southwest border than we have in the last 20 years."¹ In December 2022, more than 252,000 immigrants illegally crossed the southwest border, the highest number on record.² Unlike the 2014 and 2019 immigration surges of families, in FY 2022, 70 percent of the illegal crossings were single adults, many in search of work.³⁴
- The flood of immigrants distracts border agents from their national security mission as they provide child-care to thousands of immigrants.⁵ Meanwhile, drug smugglers have not taken a holiday. During FY 2022, border agents were responsible for seizing over 655,780 pounds of illegal drugs, including 14,699 pounds of fentanyl—enough to give a lethal dose to every American man, woman, and child ten-times over.^{6 7} Further, cartels are expanding their business model and robbing immigrants of over \$14 million per day for smuggling families, minors, and individuals to the border.⁸

The crisis at the border is largely due to the dismantling of five important policies used by the Trump administration. These policies must immediately be reinstated to alleviate this crisis.

5 Border Policies that the Biden Administration Has Dismantled:

1. Constructing a Border Wall:

- Proper border security is essential to maintaining a legal and orderly system of immigration.⁹ The Trump Administration finished over 452 miles of physical barriers, access roads, lighting, and advanced technologies to secure the Southern border.¹⁰ However, on January 20, 2021, President Biden signed an executive order ending the emergency declaration at the southern border and halting construction of the border wall.¹¹
- By halting border wall construction, President Biden communicated that enforcing immigration law and enhancing national security at the border are meaningless to his administration.

2. Using Migrant Protection Protocols (MPPs):

- MPPs were enacted in 2019 to allow certain individuals seeking asylum to wait in Mexico for their immigration proceedings rather than granting free entry into the United States. On January 20, 2021, the Department of Homeland Security (DHS) suspended new enrollment in MPP.¹²
- By ending this policy, the Biden administration loosened limits on the coyotes' smuggling business and encouraged Central American asylum-seekers to come illegally and dangerously before applying for asylum.¹³ Team Brownsville, a volunteer group that helps migrants seeking asylum, describes how this policy is negatively affecting children and parents: Because asylum-seekers may enter and stay, mothers and children are encouraged to make the treacherous journey to the border and then face the trauma of sending their children on with only a hope of reuniting.¹⁴

3. Upholding Asylum Cooperative Agreements (ACAs):

- ACAs were formed in 2019 between United States and El Salvador, Honduras, and Guatemala in order to expand asylum capabilities. Under ACAs, the U.S. partners with another country to offer

humanitarian aid to asylum-seekers. These agreements allow DHS to use every tool available to provide timely humanitarian aid by sharing the load of asylum-seekers.

- On February 6, 2021, the Department of State cancelled all ACAs. In this move, the Biden administration eliminated an essential tool for aiding asylees and disrupted relationships with countries in the Northern Triangle.

4. **Detering Illegal Border Crossings:**

- The Trump administration used policies prohibiting illegal border crossing and a clear message condemning illegal immigration in order to discourage illegal immigrants from making the dangerous journey to the border. He implemented the “Safe Third Country” rule which encouraged immigrants to apply for asylum in the first safe country they arrived in, rather than trekking through multiple countries to the United States.¹⁵
- However, the Biden administration has reversed this message. President Biden set the stage for amnesty on his first day in office. On January 20, 2021, he sent a bill to Congress—the U.S. Citizenship Act of 2021.¹⁶ This bill would give amnesty to millions of immigrants regardless of if they came legally. It would also give permanent work authorization to minors of H-1B visa holders and remove the requirement for immigrants to claim asylum within one year of arrival in the United States. By proposing this bill, President Biden promised illegal immigrants that they would become a citizen for free if they can get into the United States.

5. **Enforcing Title 42 during the pandemic:**

- The Department of Health and Human Services (HHS) has the authority through Title 42 of the Public Health Services Act to suspend entry of individuals into the U. S. and take other measures to protect public health.¹⁷ The Trump administration used this title during the COVID-19 pandemic to limit the spread of the virus at the border and among immigrants.
- The Biden administration, on the other hand, exempted unaccompanied children from this provision.¹⁸ This change has become a green light for minors crossing the border. In fact, children are unable to take any health precautions in their overcrowded holding facilities. For example, on March 23, 2021, in Donna, Texas, 400 children were held in pods made for 250 children.¹⁹ [For more information on Title 42, see RPC’s “[Biden’s COVID-19 Border Crisis](#)”]
- The Biden administration’s policies also endangered border patrol agents by exposing them to COVID. The virus became the number-one killer of agents in the line of duty during 2021 and 2022.²⁰

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² U.S. Customs and Border Patrol; Southwest Land Border Encounters. <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

³ Juan Montes and Alicia A. Caldwell. “Men Looking for Work Drive Surge in Illegal Crossings at the U.S. Border.” *Wall Street Journal*. March 24, 2021 https://www.wsj.com/articles/men-looking-for-work-drive-migrant-surge-at-the-u-s-border-11616624482?st=cmgrtz4z4yhm40w&reflink=article_gmail_share

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⁵ Paul Bedard “Photos: Agents pulled from border to feed, diaper illegal immigrants.” *Washington Examiner*. March 23, 2021. <https://www.washingtonexaminer.com/washington-secrets/photos-agents-pulled-from-border-to-feed-diaper-illegal-immigrants>

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⁷ “Facts about Fentanyl.” United States Drug Enforcement Administration. <https://www.dea.gov/resources/facts-about-fentanyl>

⁸ William La Jeunesse. “US-Mexico border traffickers earned as much as \$14M a day last month: sources” *Fox News*. March 22, 2021. <https://www.foxnews.com/politics/us-mexico-border-traffickers-million-february>

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¹¹ “Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction.” White House. January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential->

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¹³ Michael Barone. “Biden’s Open Border Immigration Policy--Why?” American Enterprise Institute. March 11, 2021.

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¹⁴ Jillian Kay Melchior. “Biden’s Border Crisis, Up Close.” *Wall Street Journal*. March 29, 2021. https://www.wsj.com/articles/bidens-border-crisis-up-close-11617057522?mod=hp_opin_pos_1

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